IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

Bail Appl..No. 6509 of 2007()

CRIME NO. 527/07 OF KALADY POLICE STATION

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PETITIONER

C.VENUGOPAL,
S/O.CHANDRASEKHARAN NAIR (LATE),
AGED 47 YEARS, CHIDAMBARAM,
POONITHURA, KOCHI-682 317.

BY ADV. SRI.K.JAJU BABU
SRI.S.SREEKUMAR
SRI.BRIJESH MOHAN

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE, KALADY POLICE STATION, ERNAKULAM.

3. SREE SANKARACHARYA UNIVERSITY OF SANSKRIT, KALADY, ERNAKULAM, REPRESENTED BY ITS REGISTRAR.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE
SRI.B.S.KRISHNAN(SR.),SC,SANSKRIT UTY.
SRI.K.ANAND, SC, SANSKRIT UTY.
SMT.LATHA KRISHNAN,SC,SANSKRIT UTY.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6509 of 2007

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Dated this the 6th day of November, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations for offences punishable, inter alia, under Section 468 I.P.C. Crime has been registered. Investigation is in progress.

2. The petitioner was employed as a Tutor in the Sree Sankaracharya University of Sanskrit, Kalady, Ernakulam. While employed as a Tutor, he admittedly produced a letter purported to be issued by the Deputy Secretary of U.G.C., in which it was communicated to him that he has passed the U.G.C. Lectureship Examination in performing Art and Dance with Reg. No. P/15321/05. On production of the said letter, the University decided to designate the petitioner as a Lecturer and upgrad his post. Accordingly orders were issued.

3. Some colleagues, suspicious of the claim of the petitioner of having acquired superior qualification, appear to have probed into the matter further. They came to know from the

U.G.C. that no letter was issued by the U.G.C. They brought up the matter before the university and the University has thereupon filed a complaint before the police alleging that a false/forged document was produced before the University by the petitioner to claim Lectureship in the University.

4. That the letter was produced by the petitioner before the University is not disputed. There is no assertion that the letter is one genuinely sent by the U.G.C. to the petitioner. There is no contention that the statements in the said letter are correct or that the petitioner has passed the said examination. That the petitioner had produced the said document as genuine is also not disputed. What then is the contention of the petitioner? The petitioner appears to raise a contention that though he had received the same by post and though he had produced the same before the University, he had absolutely no contumacious knowledge that the said document was a forged document. According to him, he received it by post. He now apprehends that some person to befool him and to prompt him to commit an illegal act may have sent the letter to the petitioner by post

to mislead him. He was actually misled and he had committed the folly of treating it as genuine and producing it before the University. This in short is the contention raised.

5. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The learned counsel submits that on realising that the letter may not be a genuine and original one, he had acted accordingly subsequently. He had informed the University that the monetary claims need not be released to him until the truth of the letter is verified.

6. The learned Prosecutor opposes the application. He submits that in the nature of the facts and circumstances of this case, a thorough interrogation of the petitioner is absolutely essential. To resolve the mystery of the crime, such interrogation is necessary. At this stage, the petitioner may not be permitted to arm himself with an order of anticipatory bail. He may be directed to appear before the Investigating Officer and co-operate with the investigation. He shall be arrested only if the interrogation points to the need for such arrest. The petitioner has to be asked about all the circumstances. He has

produced the letter, which he received, along with the cover in which it was sent to him, to a police constable in the office of the Circle Inspector. According to the Prosecutor, the same has not been formally seized, but the petitioner has to be interrogated and thereafter, if necessary, it will have to be seized. The letter as well as the cover, in which it was allegedly received, which were both handed over to a police constable, does arouse suspicion and reservation. The letter is dt. 29.9.07, but th same is seen to be posted on 8.9.2007 as per the seal of the post office. There are many loose ends for the story advanced by the petitioner. He may not be granted anticipatory bail. That which would hamper the smooth course of investigation. It would frustrate the attempts of the police to ascertain the truth.

7. The learned Prosecutor, on behalf of the Investigating Officer, who is also present in court, asserts that the petitioner shall be arrested only if interrogation leads to the requirement of such arrest. The petitioner has absolutely no reason to apprehend vexation or harassment at the hands of the police, it is submitted.

8. I have considered all the relevant inputs. The case diary was made available for my perusal. The letter (alleged original received by the petitioner as well as the cover in which it was received, handed over to the police constable) has also been placed for my perusal. I shall at this early stage of investigation not embark on a detailed discussion on merits about the acceptability of the allegations raised or the credibility of the data collected. Suffice it to say that on an anxious consideration of all the relevant inputs, I am not at all persuaded to agree that this is a fit case where the extra ordinary equitable discretion can or ought to be invoked in favour of the petitioner. There are no features in this case, which would justify the invocation of the extra ordinary equitable discretion under section 438 Cr.P.C. in favour of the petitioner. I agree with the learned Prosecutor that this is a fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. I make specific note of the submissions of the Prosecutor that the petitioner shall be arrested only if interrogation points to the need of such arrest.

(R. BASANT)
Judge

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